IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 16831 of 2005(D)

OS.506/2002 of MUNSIFF'S COURT, RANNI

.....

PETITIONERS:

---

1. KUNJU KUNJU KUTTY, S/O.PAPPY,
   EDANADU VEEDU, EZHUMATTOOR MURI,
   EZHUMATTOOR VILLAGE.

2. PRASANNAN, PARAYIL ANCHANIL VEEDU,
   EZHUMATTOOR MURI, EZHUMATTOOR VILLAGE.

3. SUNNY, THOTTATHIL VAYALIL VEEDU,
   EZHUMATTOOR MURI, EZHUMATTOOR VILLAGE.

BY ADV. SRI.P.HARIDAS

RESPONDENTS:

---

1. BABY VARGHESE, THOTTIYIL VEEDU,
   EZHUMATTOOR MURI, EZHUMATTOOR VILLAGE,
   MALLAPPALLY TALUK.

2. MARIAMMA VARUGHESE,
   THOTTIYIL VEEDU, EZHUMATTOOR MURI,
   EZHUMATTOOR VILLAGE, MALLAPPALLY TALUK,
   NOW WORKING AT 76646 KERANKEN HOUSE,
   BRAUCHSAL, GERMANY.

R1 BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.16831/05

APPENDIX

PETITIONERS' EXTS:

Ext.P1 – TRUE COPY OF RESOLUTION NO.II (14) DT.1.11.01.

Ext.P2 – TRUE COPY OF ORDER DT.11.3.05 IN O.S.506/02 IN THE MUNSIFF'S COURT, RANNY.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.16831 OF 2005

.....

DATED THIS THE 7TH JUNE, 2007

J U D G M E N T

Defendants 1 to 3 are the petitioners in this Writ Petition under Article 227 of the Constitution of India. They impugn **Ext**.P2 findings entered by the learned Munsiff on an issue as to whether the suit is bad for non-joinder of necessary parties which was raised on the basis of a contention raised by the defendants that the Panchayat is also a necessary party. The suit pertains to a pathway and the contention is that the pathway is vested in the Panchayat and is not the private pathway of the plaintiff-1st respondent. In this Court the petitioners have produced **Ext**.P1 resolution pertaining to a particular road within the limit of the Panchayat. There is controversy between the parties regarding the identity of the road which is mentioned in **Ext**.P1.

2. Today when the matter came up for hearing, Sri.Sathish Ninan, learned counsel for the 1st respondent-plaintiff would submit that the 1st respondent does not want to take any risk and will rather implead the Panchayat also as a party and seek necessary amendment of the plaint so as to incorporate appropriate reliefs since the suit as obtaining now is only for injunction.

3. In view of the above submission, I set aside **Ext.**P2 and

direct the learned Munsiff to allow the application, if any, filed by the 1st respondent-plaintiff to implead the Panchayat. It is open to the plaintiff to seek appropriate amendment of the plaint, after the court passes orders on the impleadment application.

The Writ Petition is disposed of as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

tgl